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April 28, 2004

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Docket Management Facility (USCG-2003-14472/MARAD-2003-15171)
U.S. Department of Transportation
Room PL-401, 400 Seventh Street, N.W.
Washington, D.C. 20590-0001.

USCG-2003-14472-8

Subject: Jones Act Lease Financing NPRM

MARAD-2003-15171-6

Gentlemen:

Megafleet Towing Co., Inc. provides barge fleet and marine towing to barge lines calling on the Houston/Galveston Bay complex and along the Gulf Intracoastal Canal. We operate twelve inland towboats and employ approximately eighty people. Capital investment in my Jones Act vessels of approximately \$4,000,000.00 represents my entire net worth. This investment is dependent on the continued integrity of the Jones Act and will be at risk without rulemaking that preserves U.S. ownership requirements of the cabotage laws.

While the Coast Guard's February 4 final rule takes a significant step in closing the lease-financing loophole it does not close, only narrows, it. My company supports the more detailed comments made by the American Waterway Operators (AWO) and the Marine Cabotage Task force. To effectively close the loophole the following must be done:

- *Adopt Alternative 2 prohibiting charter-back arrangements except when the vessel is carrying proprietary cargo.* Unless this is done foreign vessel owners will still be able to control vessels used in domestic trade despite the intent of Congress to prevent it. Charter-back arrangements for the carriage of proprietary cargo should be reviewed by MarAd to ensure the proper administration of the proprietary cargo exception.
- *Establish a three-year limit on the grandfather provisions contained in the lease financing final rule.* Three years is ample time for a vessel owner to restructure his investment to ensure compliance with the regulations.
- *Ensure the Coast Guard has access to the expertise it needs to evaluate whether an application for documentation meets the standards of the regulations.* Applications should meet defined criteria and be subject to public notice and comment. Additionally, the Coast Guard should be free to contract with third-party auditors as needed to assist in its review of applications.

Thank you for the opportunity to comment on the NPRM. Getting this issue corrected quickly is essential to the future of our industry in general and my company in particular.

Sincerely,

Robert A. Fry, Jr.
President/CEO



Member, THE AMERICAN WATERWAYS OPERATORS



Apr 28 2004 14:41 P.01

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